

**FALLS TOWNSHIP
ZONING HEARING BOARD
DECEMBER 8, 2020**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 9:35 p.m.

Members present: Alfred Brooks, Scott D’Oria, William Kiernan, Daniel Miles, Doug Molle

Members absent: None

Also present: Matthew Takita, AIA, MCP, Township Manager/Zoning Officer; Ed Neubauer, Code Enforcement Officer; Keith Bidlingmaier, ZHB Solicitor; Karen Browndorf, Court Stenographer

The hearing was conducted remotely through Zoom.

Chairman Miles states Petition #5 (Continuous Materials) will be moved up on the agenda to be heard after the residential applicants.

Petition #1: Kathleen and Robert Mannon, 46 Main Street, Fallsington, PA 19054; TMP #13-020-282; Zoned: HD. Requesting a dimensional variance to construct a 54 inch fence within the secondary front yard of Old Locust Avenue. Section 209-37.C(2).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6.

Kathleen Mannon presents the application and states we were at the November Zoning Hearing Board to discuss the variances needed for the pool. However, at that meeting the fence we need to replace due to the building codes for a fence with a pool became an issue. Because the fence is in the secondary front yard and will be a visual barrier, we need a variance for the fence.

Member Kiernan asks if the fence will stay in the location it is in now (yes).

No public comment.

Member D’Oria makes a motion the application of Kathleen and Robert Mannon requesting a dimensional variance from Section 209-37.C(2) of the Falls Township Zoning Ordinance be GRANTED to construct a 54 inch fence within the secondary front yard of Old Locust Avenue at the property located at 46 Main Street, Fallsington, PA 19054, as depicted in the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Brooks seconds the motion.

All in favor 5-0. Motion carries.

Petition #2: Stephen Conkey, 2 Linden Lane, Levittown, PA 19054; TMP #13-041-301; Zoned: NCR. Requesting a dimensional variance for a fence in the secondary front yard. Section 209-37.C(2).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 10.

Stephen Conkey presents the application and states he wants to extend the fence into the secondary front yard. It will be a 54-inch aluminum style pool fence and would extend the rear privacy fence just slightly into the

secondary front yard for uniformity reasons. The additional space is needed for the safety of his dogs and potential children as well as additional security for the property.

Member Kiernan asks if the fence is within the proper boundaries and out of the sight triangle (yes).

No public comment.

Member D’Oria makes a motion that the application of Stephen Conkey requesting a dimensional variance from Section 209-37.C(2) of the Falls Township Zoning Ordinance be GRANTED to construct a fence in the secondary front yard at the property located at 2 Linden Lane, Levittown, PA 19054, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board. Said fence must not encroach into the sight triangle and must comply with the measurements of setback requirements as determined by the Falls Township Zoning Officer.

Member Molle seconds the motion.

All in favor 5-0. Motion carries.

Petition #5: Continuous Materials LLC, 1000 New Ford Mill Road, Morrisville, PA 19067; TMP #13-047-099 (Zoned: SL) and #13-047-128 (Zoned: HI). Requesting dimensional variances to allow the proposed building setback to be 30 ft. instead of the required 100 ft. setback. Section 209-32.C(2)(a), 209-29.G, Table 5 (Attachment 7).

Atty. Bidlingmaier marks ZHB Exhibits 1 – 6 and Applicant’s Exhibit A-1- A-3 (proof of neighbor notification)

Witnesses sworn in: Allan Bradshaw (Sr., V.P for Continuous), David Lewis (Dir. Of Engineering and Construction for Continuous), Tim Stout (engineer). Sworn in later: Scott Perin (Area Director of Waste Management)

Edward Murphy, Esquire, presents the application. Continuous Materials is proposing to lease approximately 10 acres from Waste Management of Pennsylvania. The area of the lease comprises two separate but contiguous tax parcels that we have identified in the application. Part of the parcel is zoned SL (Sanitary Landfill) and the other parcel is zoned HI (Heavy Industrial). The combined area Continuous is leasing comprises about 7,900 linear ft of frontage along New Ford Mill Road. The proposal is for the construction of two separate buildings – 1) about 238,000 sq. ft and 2) a 7,200 sq. ft. free standing building. The larger of the two buildings is intended to be used for the construction operation of an indoor, recycled products manufacturing facility. The smaller of the building will be a two-story office building. The production facility is designed to extract from the waste stream “mixed waste papers and plastic materials”; after extraction, they would be recycled and converted into what Continuous refers to as “ever board” which is a sub straight 4x8 panel that would be used for roofing. This is a very green operation because Continuous is taking out of the waste stream these mixed waste papers and plastics which then get converted into something productive. It also reduces the amount of waste that ultimately goes to the adjacent landfill.

Continuous is seeking a reduction in the front yard setback rather than pushing the buildings further back onto the property to avoid having a conflict with the existing leachate lines and wetlands and to minimize the amount of additional grading in that same area. This area is known as the “Turkey Hill offices” of Waste Management. If we receive relief, the land development process will begin.

Allan Bradshaw and Tim Stout, in answering Atty. Murphy’s question, states Atty. Murphy’s summarization of the relief requested and details of the project are correct.

No public comment.

Member Brooks makes the motion the application of Continuous Materials LLC requesting a dimensional variance from Sections 209-32.C(2)(a), 209-29.G and Table 5 (Attachment 7) of the Falls Township Zoning Ordinances be GRANTED to allow the proposed building setback to be 30 ft. instead of the required 100 ft. setback at the property located at 1000 New Ford Mill Road, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 5-0. Motion carries.

Petition #4: Lincoln Storage, LLC, 957 Lincoln Highway, Morrisville, PA 19067; TMP #13-028-036. Zoned: HC. Requesting a use variance to allow a self-storage facility (Section 209-23) and the following dimensional variances: Section 209-23.H(1) – to allow more than one principal building per lot; Section 209-23.H(2) to allow parking within 30 ft. of the front yard parking setback; and Section 209-23.G to allow the building coverage to exceed the allowable maximum coverage of 30%.

Atty. Bidlingmaier marks ZHB Exhibits 1-7 and Applicant Exhibits A-1 – A-3 (proof of neighbor notification)

Witnesses sworn in: Donald Haas (engineer), Mitch Feldman (Lincoln Storage), Vincent Rodriguez

Tyler Prime, Esquire, presents the application and shows pictures / Power Point of the current conditions of the site and the proposed conditions once the project is complete.

Donald Haas gives specifics regarding the project. We considered the streams and the floodplain on the northeast corner of the property. We have done a wetland study as well. The design is to pull all the building, parking upfront towards the highway to minimize any impacts to the stream, floodplain and wetlands. We have placed the parking in the 30 ft. setback area. It is further away from the street than the existing parking on that site. We will be providing the appropriate landscape buffer yard (10 ft.). For the building, we are bringing that closer in – it is 100 ft. setback. To allow more than one principal use on the lot – it is common in self-storage facilities to have separate buildings. Self-storage is not a use by right in the HC district. The project meets the definitions and purpose of the HC district – which is “for businesses which due to the nature of their activity must be located with adequate street frontages along major roads and have a service radius generally wider than the immediate neighborhood.” There is already a self-storage facility in the HC district, so this project fits in with what is already present in the Township.

Mitch Feldman says they are excited about this project. The first two buildings are climate-controlled storage. The back two buildings are non-climate controlled. We make the buildings bright and appealing. The buildings also provide protection from the weather. The property is gated for security. It is a modern storage facility.

Member Kiernan asks if they will meet the impervious surface requirements (yes).

Member D’Oria asks about the parking in the front and buffer requirements.

Public Comment

Ronald West, 965 Lincoln Highway, expresses his concern with the stormwater. There is a lot of impervious surface and we have a lot of problems with Martin Creek. We are on a 25 degree slope down from this site. The entire back floods.

Dan Haas replies they do have room in the rear of the property in the northwest corner, and we are looking at the stormwater to drain it into that location. We intend to meet all the ordinance requirements for stormwater discharge from the site; in addition to that we will be under DEP requirements and Bucks County Conservation District will also be reviewing the plans for erosion control and management of the stormwater.

In response to a question by Chairman Miles, Mr. Haas states he does not know the current impervious coverage but does know they are increasing it from its current number but keeping it underneath the total allowable coverage.

Mr. West continues to express his concern about the stormwater runoff, how he has spent thousands of dollars improving his property and those properties around him. The current situation continually erodes the woodlands whenever it rains.

Mr. Haas says they will manage the site and we will not increase stormwater runoff rates from the site. This will be covered in the land development process that we must go through if we receive our approvals tonight.

Mr. West questions if everyone is aware there is no public water or sewer at this area. It is well and septic systems.

Mr. Haas says they are aware of that fact.

No other public comment.

Member D’Oria makes a motion the application of Lincoln Storage LLC requesting a use variance and dimensional variances from Falls Township Zoning Ordinances at the property located at 957 Lincoln Highway, Morrisville, PA 19067, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board be GRANTED. This motion to approve includes the following requested relief: Sections 209-23 allowing a self-storage facility, Section 209-23.H(1) allowing more than one principal building per lot, Section 209-23.H(2) allowing parking within 30 ft. of the front yard parking setback, and Section 209-23.G allowing the building coverage to exceed the allowable maximum coverage of 30%.

Member Molle seconds the motion.

All in favor 5-0. Motion carries.

Petition #3: KA at Fairless Hills, LP, 500 Lincoln Highway, Fairless Hills, PA 19030; TMP #13-017-109; Zoned: HC. Requesting the following dimensional variances to permit the construction of a 5,585 sq. ft. convenience store with 8 multi-product fuel dispensers: Lot A (Wawa Convenience Store with Fuel Dispensing Facilities): Section 209-23.G and 209-23.H(2) -- to permit impervious coverage of 83.5% within the HC District rather than the maximum permitted impervious coverage of 70%; and to permit parking 0 ft. adjacent to a lot line rather than the required 10 ft. Section 209-34.E – to permit an accessory fuel pump canopy within a front yard area rather than in the side or rear yard as required. Section 209-45.Q(5)(b) and 209-45.Q(6)(b)[1] – to permit one wall sign of 67.71 sq. ft. and one wall sign of 36.85 sq. ft. rather than the maximum permitted of 32 sq. ft.; and to permit canopy signs to be internally illuminated rather than the required external illumination. Section 209-50.G(1)(a) and (c) – to permit 315 ft. between motor vehicle fueling stations rather than the required 500 ft.; to permit trash facilities to be located outside of a building; and to permit air pumps 21 ft. from the ultimate right-of-way rather than the required 50 ft. Lot B (Existing Shopping Center): Section 209-24.F and 209-24.G(2) – to permit maximum impervious coverage of 89.2% within the SC district rather than the maximum permitted of 75%; to permit maximum building coverage of 33.5% within the SC district rather than the maximum permitted of 30%; and to permit parking 0 ft. adjacent to a lot line within the SC district rather than the

required 50 ft. Section 209-42.H(12) – to permit 650 parking spaces for a shopping center use rather than the required 1,100 parking spaces. Lots A and B: Section 209-42.B(1) – to not provide clustered plantings 4 ft. in height and 10 ft. in width.

Atty. Bidlingmaier marks ZHB Exhibits 1 – 8 and Applicant A-13 – A-15 (proof of neighbor notification)

Witnesses sworn in: Mark Kessler (KA at Fairless Hills), Justin Geonnotti, P.E. (Dynamic Engineering), and Mike Rydal (Wawa)

Julie VonSpreckelsen, Esquire, presents the application. Applicant is the legal owner of the property. The property as it exists today comprises 15.3 acres, is zoned SC (Shopping Center) and is improved with a 188,458 sq. ft. shopping center and a 6,020 sq. ft. stand-alone restaurant that is in the parking area of the shopping center. There is also associated parking and some lighting as well. The property has numerous existing non-conformities; those include impervious coverage, number of parking spaces, building, and parking setbacks, maximum lot coverage, and plantings between parking areas and lot lines or straight lines.

We are proposing the redevelopment of the northeast corner of Lincoln Highway and Arleans Avenue with a 5,585 sq. ft. Wawa convenience store with a fuel dispensing facility. This is important for the revitalization of the shopping center who has been experiencing a decline. We are proposing this to prevent another shopping center bankruptcy from occurring. We believe this will bolster the viability of the shopping center as well as attract other tenants into the shopping center to fill those existing vacancies.

After consulting with Township staff and engineer, the first step was to start with a re-zoning application and a subdivision application. Those applications have been granted by the Board of Supervisors on October 19, 2020. It allowed for 2.04 acre portion of that property to be subdivided from the main parcel (northeast corner of Arleans and Lincoln Highway). We were permitted a minor subdivision of the property, and in addition, re-zoned that subdivided lot from SC district to the HC district. Those approvals are contained in Applicant Exhibit A-2. Based on those approvals, we are now allowed to move forward with the development of a 5,585 sq. ft. Wawa convenience store with 8 multi-product fuel dispensers, 82 parking spaces and associated lighting, increased landscaping, increased green area and adding stormwater management facilities. The existing stand-alone restaurant will relocate into the vacant space within the shopping center [next to Retro Fitness]. That building will be demolished to make way for the Wawa.

To move forward, we are requesting the dimensional variances noted. The use is now a permitted use with the re-zoning to HC. The convenience store is permitted by right; the accessory use (gasoline pumps) is permitted by Conditional Use so we will go back before the Board of Supervisors for that approval. What we are asking from this Board are dimensional variances. The Board may consider numerous factors, one of which is the economic burden on the applicant if the variances are denied; another is the financial hardship on the applicant to have to bring the property into conformance with the zoning ordinance requirements; yet another is to consider the characteristics of the neighborhood. This is a commercial corridor, so this use fits right within the character of the neighborhood.

Exhibits from applicant are discussed.

Mark Kessler (Director of Asset Management and Construction for the Klein Group) states the Klein Group is the managing agent for the property, and Jacob Klein the president of the Klein Group is the managing partner of KA at Fairless Hills. He testifies as to the leasing history of the property, problems with gaining tenants, renovations to gain tenants, and the importance to granting the variances to allow Wawa to build and the variances related to the existing shopping center.

Justin Geonnotti, P.E. testifies as to the existing conditions of property, details the existing non-conformities at the property, the neighboring uses, the re-zoning and subdivision approved by the Board of Supervisors where some of the parking aisles were re-configured to make it more conducive to the traffic in and out. This was at the recommendation of both the Planning Commission and the Board of Supervisors to provide safe access for this driveway to eliminate some of the cross traffic to the intersection. When we were before the Planning Commission on the minor subdivision plan, the Planning Commission requested we meet the front yard setback from Arleans Avenue. The Wawa building is set 100 ft. off the right of way for Arleans – almost 200 ft. off the right of way of Lincoln Highway. Landscaping will be provided as well as stormwater management during the land development phase. Signage and elevation are also discussed.

He discusses in detail the variances requested.

No Board questions.

No public comment.

Member D’Oria makes a motion that the application of KA at Fairless Hills, LP requesting the following dimensional variances be GRANTED to permit the construction of a 5,585 sq. ft. convenience store with 8 multi-product fuels dispensaries at the property located at 500 Lincoln Highway, Fairless Hills, PA 19030, as depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board: Lot A (Wawa Convenience Store with Fuel Dispensing Facilities): Section 209-23.G and 209-23.H(2) -- to permit impervious coverage of 83.5% within the HC District rather than the maximum permitted impervious coverage of 70%; and to permit parking 0 ft. adjacent to a lot line rather than the required 10 ft. Section 209-34.E – to permit an accessory fuel pump canopy within a front yard area rather than in the side or rear yard as required. Section 209-45.Q(5)(b) and 209-45.Q(6)(b)[1] – to permit one wall sign of 67.71 sq. ft. and one wall sign of 36.85 sq. ft. rather than the maximum permitted of 32 sq. ft.; and to permit canopy signs to be internally illuminated rather than the required external illumination. Section 209-50.G(1)(a) and (c) – to permit 315 ft. between motor vehicle fueling stations rather than the required 500 ft.; to permit trash facilities to be located outside of a building; and to permit air pumps 21 ft. from the ultimate right-of-way rather than the required 50 ft. Lot B (Existing Shopping Center): Section 209-24.F and 209-24.G(2) – to permit maximum impervious coverage of 89.2% within the SC district rather than the maximum permitted of 75%; to permit maximum building coverage of 33.5% within the SC district rather than the maximum permitted of 30%; and to permit parking 0 ft. adjacent to a lot line within the SC district rather than the required 50 ft. Section 209-42.H(12) – to permit 650 parking spaces for a shopping center use rather than the required 1,100 parking spaces. Lots A and B: Section 209-42.B(1) – to not provide clustered plantings 4 ft. in height and 10 ft. in width.

Member Kiernan seconds the motion.

All in favor 5-0. Motion carries.

Hearing adjourned 9:35 p.m